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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,555	11/01/2001	Roberto Iribarren	004004.P006	3792

8791 7590 05/21/2007  
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EXAMINER
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NORMAN, SAMICA L

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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05/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Office Action Summary</b></p>	Application No. 10/002,555	Applicant(s) IRRIBARREN ET AL.	
	Examiner Samica L. Norman	Art Unit 3692	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20020211</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

**Claims 1-20 have been examined.**

### *Specification*

1. The disclosure is objected to because of the following informalities: Paragraph 0051, line 2 recites the term “consider” which should recite “considered.” Paragraph 00147, line 5 recites the phrase “this difference is price is within a range” which should recite “this difference **in** price is within a range.” Appropriate correction is required.

### *Drawings*

2. The drawings are objected to because Figure 5A’s first step is labeled “from block 320” that should be labeled “from block 330” from Specification paragraph 0097, line 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be

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labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR

1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

3. Claim 15 is objected to because of the following informalities: The claim needs to end with a period. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-12 and 14-19 are rejected under 35 U.S.C. 102(e) and (a) as being anticipated by Luke et al., U.S. Patent No. 6,131,087 (reference A on the attached PTO-892 document).

6. As per claim 1, Luke et al. teaches a computer implemented method comprising:  
determining that a price for a quantity of business offered by at least one vendor and a price by at least one buyer for the quantity of business do not match during at least one prior bidding cycle in an on-line bidding transaction (see column 8, lines 21-24); determining a difference between

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the price by the at least one vendor and the price by the at least one buyer (see column 8, lines 25-63); and generating a new bidding cycle in the on-line bidding transaction upon determining that the difference is within a range (see column 9, lines 49-60).

7. As per claim 2, Luke et al. teaches the computer implemented method of claim 1 as described above. Luke et al. further teaches wherein the range is based on a percentage of closeness between the price for the quantity of business by the at least one vendor and the price by the at least one buyer for the quantity of business (see column 8, lines 25-63).

8. As per claim 3, Luke et al. teaches the computer implemented method of claim 2 as described above. Luke et al. further teaches wherein generating the new bidding cycle comprises matching the vendor that is closest to the at least one buyer upon determining that the difference between the price by the vendor and the price by the at least one buyer is within the range (see column 9, lines 49-60).

9. As per claim 4, Luke et al. teaches the computer implemented method of claim 1 as described above. Luke et al. further teaches wherein the buyer is anonymous (see column 3, lines 54-55).

10. As per claim 5, Luke et al. teaches the computer implemented method of claim 1 as described above. Luke et al. further teaches wherein the at least one buyer is committed to the quantity of business if the price offered by the at least one vendor is met (see column 9, lines 31-33).

11. As per claim 6, Luke et al. teaches the computer implemented method of claim 1 as described above. Luke et al. further teaches wherein the range is determined subsequent to

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determining the difference between the price by the vendor and the price by the at least one buyer (see column 7, lines 17-20).

12. As per claim 7, Luke et al. teaches the computer implemented method of claim 1 as described above. Luke et al. further teaches wherein the range is determined prior to any bidding cycle between the vendor and the set of one or more buyers (see column 7, lines 17-20).

13. As per claim 8, Luke et al. teaches the computer implemented method of claim 1 as described above. Luke et al. further teaches wherein the range is determined by the vendor (see column 7, lines 28-33).

14. As per claim 9, Luke et al. teaches a computer implemented method comprising: determining that a quantity of business that a buyer wanted was not met by a set of one or more vendors during at least one prior bidding cycle in an on-line bidding transaction (see column 8, lines 21-24); selecting one vendor from among the set of one or more vendors that is closest in price for the quantity of business to a price for the quantity of business that is offered by the buyer (see column 9, lines 49-60); determining a difference between the price by the vendor that is closest and the price by the buyer (see column 8, lines 25-63); and matching the vendor that is closest to the buyer upon determining that the difference between the price by the vendor and the price by the buyer is within a percentage range (see column 9, lines 49-60).

15. As per claim 10, Luke et al. teaches the computer implemented method of claim 9 as described above. Luke et al. further teaches wherein the percentage range is determined by the one vendor (see column 7, lines 28-33).

16. As per claim 11, Luke et al. teaches the computer implemented method of claim 9 as described above. Luke et al. further teaches wherein the percentage range is determined

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subsequent to determining the difference between the price by the one vendor and the price by the buyer (see column 7, lines 17-20).

17. As per claim 12, Luke et al. teaches the computer implemented method of claim 9 as described above. Luke et al. further teaches wherein the percentage range is determined prior to any bidding cycle between the one vendor and the buyer (see column 7, lines 17-20).

18. As per claim 14, Luke et al. teaches the computer implemented method of claim 9 as described above. Luke et al. further teaches wherein the percentage range is based on a price amount of the quantity of business (see column 6, lines 65-67 and column 7, lines 1-2).

19. As per claim 15, Luke et al. teaches a computer implemented method comprising: determining that a price for a quantity of business offered by a set of one or more vendors and a price by a set of one or more buyers for the quantity of business do not match during at least one prior bidding cycle in an on-line bidding transaction (see column 8, lines 21-24); selecting one vendor from among the set of one or more vendors that is closest in price for the quantity of business to a price for the quantity of business that is offered by the buyer for each buyer in the set of one or more buyers (see column 8, lines 25-63); determining a difference between the price by the one vendor that is closest and the price by the buyer for each buyer in the set of one or more buyers (see column 9, lines 49-60); generating a new bidding cycle in the on-line bidding transaction upon determining that the difference is within a range for each buyer in the set of one or more buyers (see column 9, lines 49-60), wherein the generating the new bidding cycle comprises: generating pools of buyers for each vendor that is closest in price (see column 9, lines 1-8); and determining whether the price for the vendor is within a percentage range of the price for the pool of buyers for each pool of buyers (see column 9, lines 1-8).

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20. As per claim 16, Luke et al. teaches the computer implemented method of claim 15 as described above. Luke et al. further teaches wherein the percentage range is determined subsequent to determining the difference between the price by the one vendor and the price by the set of one or more buyers (see column 7, lines 17-20).

21. As per claim 17, Luke et al. teaches the computer implemented method of claim 15 as described above. Luke et al. further teaches wherein the percentage range is determined prior to any bidding cycle between the one vendor and the set of one or more buyers (see column 7, lines 17-20).

22. As per claim 18, Luke et al. teaches the computer implemented method of claim 15 as described above. Luke et al. further teaches wherein the range is determined by the one vendor (see column 7, lines 28-33).

23. As per claim 19, Luke et al. teaches the computer implemented method of claim 15 as described above. Luke et al. further teaches wherein the range is determined by the set of one or more buyers (see column 7, lines 28-33).

### ***Claim Rejections - 35 USC § 103***

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claims 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luke et al., U.S. Patent No. 6,131,087 (reference A on the attached PTO-892 document).



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26. As per claim 13, Luke et al. teaches the computer implemented method of claim 9 as described above. Luke et al. does not show wherein the percentage range is determined by an intermediary. The Examiner notes, altering the party that the percentage range is determined by does not modify the computer implemented method. To have modified Luke et al. to have included an intermediary would have been obvious to the skilled artisan because the inclusion of such a step would have been an obvious matter of design choice in light of the method already disclosed by Luke et al. Such modification would not have otherwise affected Luke et al. and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed in Luke et al. Additionally, applicant has not persuasively demonstrated the criticality of the percentage range being determined by an intermediary versus another party. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

27. As per claim 20, Luke et al. teaches the computer implemented method of claim 15 as described above. Luke et al. does not show wherein the range is determined by an intermediary. The Examiner notes, altering the party that the percentage range is determined by does not modify the computer implemented method. To have modified Luke et al. to have included an intermediary would have been obvious to the skilled artisan because the inclusion of such a step would have been an obvious matter of design choice in light of the method already disclosed by Luke et al. Such modification would not have otherwise affected Luke et al. and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed in Luke et al. Additionally, applicant has not persuasively demonstrated the criticality of the range being determined by an intermediary versus another party. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

*Conclusion*

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Silverman et al., U.S. Patent No. 5,924,082 (reference B on the attached PTO-892 document), teaches a negotiated matching system that identifies potential counterparties to a transaction using criteria input by each user of the system and then enables communication between the counterparties.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samica L. Norman whose telephone number is (571) 270-1371. The examiner can normally be reached on Mon-Thur 6:30a-4p, w/ 1st Fri off & 2nd 6:30a-3p.

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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sln

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